

Attorney Docket Number: 6771USP4
Filing Date: September 11, 2003

Remarks

A. Background

Claims 1,3,5-20 are currently pending, Claims 2,4,21-29 are hereby canceled through the above amendments without disclaimer as to the subject matter contained therein. Claims 1,3,6, and 7 have been amended through the above amendments.

B. Election/Restriction

Applicants hereby reaffirm the election Group 1, consisting of claims 1-20 drawn to a suturing device. Applicants have canceled claims 21-29 without disclaimer as to the subject matter contained therein.

C. Amendments to the Specification/Drawings

Applicants hereby submit the above amendments to the specification, wherein paragraph [0001] has been amended to include the serial number of application of which the present application claims priority from. Paragraph [0214] has been amended to correct a typographical error, wherein reference number 691 has been changed to 692 to correspond to the reference number utilized in Figure 51. Applicant believes that the amendment to the specification makes moot the necessity to submit a corrected drawing sheet for Figure 51, as the specification has been amended to conform to the reference numbers utilized in Figure 51. No new matter has been added through the above amendments to the specification.

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D. Claim Rejections 35 U.S.C. §102(b)

Claims 1-3,5,7,11-14,16 and 18 were rejected under 35 U.S.C. §102(b) as being anticipated by Violante (US 3,840,017).

Violante shows and describes a surgical instrument. The surgical instrument 10 includes a **protecting sheath** 170, the protecting sheath 170 includes a cutting member 176 attached thereto. As described in Violante (Column 3, line 33-column 4, line 3) the needle protection sheath 170 is adapted to slip over the needle of the surgical instrument, wherein the cutting member 176 is attached to the removable protective sheath.

In contrast, in accordance with the above amendments, Applicants believe Violante fails to teach every element of the present invention. Specifically, Violante fails to disclose the feature of a housing having a shaft extending therefrom, where a needle is movable within the shaft and with regard to the housing, and wherein the housing includes a cutting member. As described above, the removable needle guard of Violante includes a cutting member but fails to include a shaft and a needle that is movable within the shaft and with respect to the removable needle guard. In fact, the needle 164 as shown in Violante, is attached to a separate housing which is distinct and different than the removable needle guard 170.

Applicants further believe that the device of Violante further fails to disclose every element of the present invention. Specifically, the housing of Violante is indicated by reference number 150 not by reference number 170, where reference number 170 refers to a removable needle cover. As described above, the removable needle cover 170 does not have a shaft extending therefrom where a

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needle is movable with respect to the housing and the shaft. The housing 150 illustrates a needle 164 extending therefrom but fails to disclose a shaft through which the needle is disposed and movable with respect to the body and the shaft.

Thus, Applicants believe that Violante fails to teach every element of the present invention and respectfully request reconsideration in view of the above amendments and remarks.

With regard to independent claim 12, Applicants believe that Violante fails to teach every element of the present invention. As described above and within the statement of the rejection, Violante includes a removable needle cover 170 having a cutting member 176 attached thereto. It was further asserted that the housing 176 included an elongated shaft 172 extending from the distal end. Applicants believe that the device of Violante has been misinterpreted; specifically reference number 172 refers to an inner taper formed on the inside of the removable needle cover 170 (Column 3, line 35). Thus, Violante fails to disclose a claimed element of the present invention. Additionally, Violante additionally fails to disclose a device having a housing with a shaft extending from a distal end thereof, wherein a needle is disposed through the housing and the shaft, the needle being movable by a needle actuation handle.

Applicants believe that Claims 1 and 12 as presented above are allowable over Violante for the reasons above and respectfully request that the rejection be withdrawn and the application advanced to allowance.

E. Claim Rejection 35 U.S.C. §103

Claims 4,6,8-10,15,17,19, and 20 were rejected under 35 U.S.C. §103(a) as being

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unpatentable over Violante in view of Ogburn (US RE 22,857).

Applicants believe that the present rejection under 35 U.S.C. §103(a) is improper for the reasons stated above and in view of the amendments to the claims presented above. Specifically, claims 4,6,8-10, 15,17,19, and 20 are dependent claims that depend from an allowable base claim and therefore include all of the limitations of the allowable independent base claim from which they depend.

Additionally, Applicants believe that the combination sought is improper because Ogburn does not add any necessary components to Violante. Ogburn includes a cutting member disposed on a medical device, Violante includes a cutting member on a medical device, thus Applicants believe that the reasoning for the combination sought is improper. Additionally, If the purpose of the combination is to add a cutting member to the handle 150 of Violante, Applicants believe that the modified device fails to teach the present invention. Specifically, the modified device would then include two body members, the removable cap 170 and a handle 150, wherein the Applicants claimed invention requires a single body member.

Therefore, for these reasons, Applicants respectfully request that the claim rejection be withdrawn and the application advanced to allowance.

F. Conclusion

Applicants believe that through the above amendments presented herein as well as the remarks presented above, the present application is in condition for allowance. Applicants respectfully request that the application be advance to allowance as soon as possible.

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In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 01-0025 for any charges that may be due or credit our account for any overpayment.

Respectfully submitted,

23492

ABBOTT LABORATORIES

Telephone: (847) 938-5386

Facsimile: (847) 938-2623

Please direct all telephone inquires to:

Kelly J. McCrystle reg. no. 46,257

(650) 474-3326


Kelly J. McCrystle
Registration Number 46,257
Attorney for Applicants